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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/797,079	02/10/97	BENNETT C	AT9-97-044

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EXAMINER	
DINH, D	
ART UNIT	PAPER NUMBER
2757	6

DATE MAILED: 02/03/00

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☑ Responsive to communication(s) filed on 11-15-99.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☑ Claim(s) 1-31 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☑ Claim(s) 1-31 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

– SEE OFFICE ACTION ON THE FOLLOWING PAGES –

DETAILED ACTION

Applicant's arguments filed 11-15-99 have been fully considered but they are not persuasive.

Applicant argued essentially that Rowe teaches away from the present invention by not downloading the whole file and Rowe does not support reassembling of the file. The argument is not persuasive because while Rowe preferred embodiment is for downloading only the needed part for viewing. There is nothing in Rowe that would preclude one from downloading the whole file. It is common in the art at the time of the invention to save file from the Internet for offline view at a later time. Rowe provide a table of content identifying the components of the file. The file structure of Rowe clearly support downloading the components one by one and "reassemble" to produce the whole document.

Claims 1-31 are rejected under 35 U.S.C 103(a) as stated in the prior office action.

The following is a new ground of rejection.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-4, 8, 17-20, 21, 22-23, 24-25, 26-27, 30 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Averbuch et al. US patent 5,689,825.

As per claim 1, Averbuch teaches a method of downloading a file, consisting of a set of components [blocks], from an Internet server to an internet client [col.5 line 35], comprising the steps of:

generating a profile of the file [col.5 lines 36-39] that includes identifying information for each components [block size];

initiating a download sequence by which each component is transferred, one-by-one [col.5 lines 55-60], from the server to the client using an Internet protocol [col.5 line 35];

when downloading sequence is complete, reassembling the components into the file [col.6 lines 29-40].

As per claim 2, Averbuch teaches upon interruption of the download sequence, restarting the download at the component affected by the interruption [col.6 lines 20-29].

As per claim 3, Averbuch teaches the component transferred prior to the interruption is not re-transferred [col.6 line 29].

As per claim 4 and 23,25, Averbuch teaches using FTP [col.5 line 36].

As per claims 8, 17, 21, 22, 24, 26, 31 they are rejected under similar rationale as for claim 1 above.

As per claim 18, Averbuch teaches dividing the file into components [blocks].

As per claims 19-20, Averbuch teaches transferring of the profile prior to initiating the download sequence [col.5 35-37].

As per claim 27, it is apparent that the components (blocks) are sequentially transferred.

As per claim 30, Averbuch teaches the file is an updated program version [col.5 line 45 updated software].

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> *(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*

Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch et al. US patent 5,689,825

As per claims 27 and 28, the order of transfer can only be either sequential or not sequential. Since the claims recited both, clearly the sequence of transfer would have been a matter of design choice. It would have been obvious for one of ordinary skill in the art to choose a download sequence that would best use of the bandwidth and connection time.

As per claim 29, Averbuch does not specifically disclose the client being a Web appliance. Using a Web appliance would have been an clearly obvious variation from Averbuch teaching. It would have been obvious for one of ordinary skill in the art to apply Averbuch teaching to a Web appliance because it would have enable the Web appliance to efficiently download files.

Claims 5-7, 9-11, 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch et al. US patent 5,689,825 and further in view of Rowe et al. US patent 5,737,599.

As per claims 5 and 9, Averbuch does not teaches including identifier for each component and code uniquely identifying the component. Rowe teaches a method for efficient downloading of large file by providing components and a profile including for each component an identifier, size, and code uniquely identifying

the component [fig.15b "signature"]. It would have been obvious for one of ordinary skill in the art to apply Rowe teaching with Averbuch because it would have enable the system to efficiently and accurately download complex data file.

As per claims 6, 10, it is well known in the art to use CRC code for identifying file object. A method of producing the unique code would have been a matter of design choice well within the level of one of ordinary skill in the art.

As per claims 7, 11, Averbuch does not specifically disclose verifying the component transferred. It would have been obvious for one of ordinary skill in the art to do so because it would have improved the reliability of the system.

As per claim 12, it is rejected under similar rationale as for claim 1 + 7 above.

As per claims 13-14, Averbuch teaches transferring of the profile prior to initiating the download sequence [col.5 35-37].

As per claims 15-16, they are rejected under similar rationales as for claims 5-6 above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (703) 305-9655. The examiner can normally be reached on Monday-Thursday from 7:00 AM - 4:30 PM. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (703) 305-4792.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, DC 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

(703) 305-9731 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA, Sixth Floor (Receptionist).

Dung Dinh
Primary Examiner
January 28, 2000